IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Crl.MC.No. 2587 of 2007()

CC.311/2005 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

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PETITIONERS/ACCUSED 1 AND 2:

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1. LENIN, S/O. SUBRAN,
   AGED 36 YEARS, NIKATHITHARA HOUSE, NAYARAMBALAM.

2. SUBRAN, S/O. SARASAN,
   AGED 64 YEARS, NIKATHITHARA HOUSE, NAYARAMBALAM.

BY ADV. SRI.N.A.SHAJI
SRI.T.X.SHAM JOSEPH

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2587 of 2007

Dated this the 16th day of August 2007

O R D E R

The petitioners faces indictment for offences punishable inter alia under Section 324 I.P.C. All offences are bailable, it is submitted. The petitioners had appeared before the learned Magistrate and were enlarged on bail. On 20/7/2007 when the matter came up for hearing, the petitioners were absent. An application was filed on their behalf to excuse their absence. Rejecting the application of the petitioners, non-bailable warrant of arrest has been issued by the learned Magistrate against the petitioners.

2. It was reported earlier that the matter is likely to be settled. The complainant had appeared before the court. But the matter has not been settled. It is, in these circumstances, that the warrants of arrest were issued against the petitioners and notice was issued to the sureties.

3. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Though it was expected

that the matter can be settled. the details of the settlement could not be worked out by 20/7/2007. Even now attempts are afoot to settle the matter. According to the learned counsel for the petitioner, the absence of the petitioner on 20/7/2007 was not wilful. They were ill and that is why they could not appear. The petitioners now want to surrender before the learned Magistrate. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

4. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient

general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

6. There shall be a further direction that the warrants of arrest issued against the petitioners on 20/07/2007 shall not be executed till 30/08/2007.

Hand over copy of this order to the learned counsel for the petitioners.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007